

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

D & M LAND COMPANY, LLC,

CHAPTER 11

CASE NO. 07-00054-5-ATS

Debtor.

**POST-CONFIRMATION APPLICATION FOR ATTORNEY FOR
DEBTOR FEE AND EXPENSE REIMBURSEMENT**

The undersigned Gregory B. Crampton of Nicholls & Crampton, P.A. ("Applicant") applies to the Court for the entry of an Order approving and authorizing post-confirmation attorney for Debtor's fees in the amount of \$14,166.50 and expense reimbursement in the amount of \$88.87 for the period November 4, 2008 to March 25, 2009. In support of said Post-Confirmation Application, Applicant respectfully shows the Court the following:

1. The Applicant has acted as attorney for the Debtor from the commencement of this Chapter 11 case on January 10, 2007, and was employed and appointed attorney for the Debtor by Order dated March 1, 2007. The services rendered by Applicant and members of their firm have been substantial and Applicant believes that allowance of a fee in full at this time is appropriate and necessary in that they and members of their firm have rendered valuable services in furtherance of Debtor's Chapter 11.

2. Debtor's counsel have been significantly involved issues related to implementation and consummation of Debtor's Plan of Reorganization which was confirmed by Order entered on December 19, 2007, including the Public Auction procedures and sale of Debtor's real estate.

3. All of the services rendered as set out in the Application constitute costs of sale of Debtor's real estate within the purview of this Court's Order Allowing Sale of Real Property at Public Auction Free and Clear of Liens, Approving Auction Procedure, and Approving Auctioneer Employment and Compensation of Auctioneer filed on February 12, 2009 and that Ex Parte Order Confirming Sale of Real Property at Public Auction and Approving Compensation of Auctioneer filed on March 10, 2009 (the "March 10, 2009 Order"). Counsel for BB&T was provided a copy of the Statement for Services Rendered attached as Exhibit B hereto in connection with the closing of the sale of Debtor's real estate to Atlas NC 1 SPE, LLC, assignee of Branch Banking and Trust Company ("BB&T") as confirmed by the March 10, 2009 Order. The costs of such sale were required to be paid by BB&T at closing. **BB&T, through counsel, has approved the Exhibit B Statement and BB&T has already paid the total amount of \$14,166.50 and expense reimbursement in the amount of \$88.87 into the Nicholls & Crampton, P.A. Administrative Trust Account.**

4. A Summary of Services Rendered which indicates the name of the attorney or paralegal, the hours spent, the hourly rate and total compensation requested is attached as **Exhibit A**. Attached as **Exhibit B** is a breakdown by hours and description of the services rendered in connection with this Application. Services rendered were reasonable and necessary in the proper representation of the Debtor. The March 25, 2009 time entry for Gregory B. Crampton set out on Exhibit B reflects an estimated three hours to complete the closing of the sale of Debtor's real estate at Public Auction. In fact, said attorney expended 3.1 hours to date in completion of the sale, versus the three hour estimate presented to and approved by BB&T. Said **Exhibit B** reflects an itemization of expenses incurred on behalf of the Debtor by category totals.

5. The hourly rates applied post-confirmation reflect the respective attorney's current normal hourly rate for such time periods. Gregory B. Crampton rendered professional services of not less than 29.7 hours at the rate of \$385.00 per hour. Stephani W. Humrickhouse has rendered professional services of not less than 4.2 hours at the rate of \$365.00 per hour. Phyllis Hill has rendered paralegal services of not less than 10.9 hours at the rate of 110.00.

6. Gregory B. Crampton is a Principal with Nicholls & Crampton, P.A. He is a Board Certified Specialist in Bankruptcy Law by the North Carolina State Bar Board of Legal Specialization and by the American Bankruptcy Certification Board, a Fellow of the American College of Bankruptcy, and an experienced Chapter 11 bankruptcy practitioner. Mr. Crampton was admitted to the bar in 1972. Mr. Crampton regularly charges and has been paid as his ordinary rate during the time period covered by this Application at the rate of \$385.00 per hour.

7. Stephani W. Humrickhouse is a Principal with Nicholls & Crampton, P.A. She is a Board Certified Specialist in Bankruptcy Law by the North Carolina State Bar Board of Legal Specialization, is a former member of the Bankruptcy Council of the North Carolina Bar Association, is presently Chair of the Bankruptcy Section, previously served as Chairman of its Continuing Legal Education Committee, is a Certified Bankruptcy Specialist by the American Bankruptcy Certification Board and is an experienced Chapter 11 bankruptcy practitioner. Mrs. Humrickhouse was admitted to the bar in 1980. Mrs. Humrickhouse regularly charged and has been paid as her ordinary rate during the time period covered by this Application at the rate of \$365.00 per hour.

8. Phyllis W. Hill is a North Carolina State Bar Certified Paralegal with Nicholls & Crampton, P.A. She attended the University of Tennessee in Knoxville, TN majoring in Business Administration and received her paralegal certificate from UT. She has been a paralegal since 1977 with seven years experience in Tax, Estate Planning, Trust and Estate Administration in Knoxville, TN, eight years experience in Civil Litigation with Hunton & Williams in Raleigh, NC and has been with Nicholls & Crampton since 1993 concentrating in Bankruptcy.

9. Copying charges are recorded by client identification number, pursuant to a control counting device connected to Applicant's copying machine. The copying charges are read by Applicant's Office Administrator twice monthly, at mid and end month, and entered into

the Accounting Package on those "read" dates. Applicant does not have the ability to further break down the dates such copying charges were incurred other than as expressed above.

10. Postage charges are entered cumulatively at month's end.

11. Copies are charged at 20¢ per page and fax transmissions are charged at \$1.00 per page for out-going transmissions, with no charge for incoming faxes.

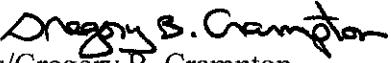
12. Final Application for Attorney Fees and Reimbursement of Expenses was allowed by Order entered on June 2, 2008 (fees in the amount of \$27,002.50 and expense reimbursement in the amount of \$255.68 for the period November 9, 2007 to December 19, 2007. Post-Confirmation Application for Attorney for Debtor Fees and Expense Reimbursement was allowed by Order entered on December 22, 2008 (fees in the amount of \$56,576.00 and expense reimbursement in the amount of \$1,805.20 for the period December 20, 2007 to October 15, 2008).

13. **Paragraph 10.4 of Debtor's Confirmed Plan reduced the Notice period applicable to attorney for Debtor fee applications for post-confirmation services to a fifteen (15) day Notice, inclusive of the three days for mailing otherwise applicable ("The notice period applicable to service of any notices on the creditors otherwise applicable, pursuant to the provisions of the Code or this Plan, excluding any notice of hearing on application or allowance of compensation of professional persons for services rendered prior to the Confirmation Date pursuant to Section 330 of the Code, but including any notice of hearing on application or allowance of compensation of professional persons for services rendered after the Confirmation Date pursuant to Section 330 of the Code, are reduced to a fifteen (15) day period, inclusive of the three days for mailing pursuant to Rule 9006(f) of the Bankruptcy Rules....").**

14. The best interests of Debtor, its creditors and estate will be served by the allowance of this post-confirmation Application in full.

WHEREFORE, Applicant respectfully requests that the Court enter an Order allowing and authorizing post-confirmation attorney for Debtor fees in the amount of \$14,166.50 and expense reimbursement in the amount of \$88.87 for the period November 4, 2008 to March 25, 2009.

This the 10th day of April, 2009.


s/Gregory B. Crampton

Gregory B. Crampton
State Bar No. 991
Stephani W. Humrickhouse
State Bar No. 9528
NICHOLLS & CRAMPTON, P.A.
Post Office Box 18237
Raleigh, NC 27619
Telephone: 919/781-1311
Attorneys for Debtor

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN RE:

CHAPTER 11

D & M LAND COMPANY, LLC,

CASE NO. 07-00054-5-ATS

Debtor.

SUMMARY OF SERVICES RENDERED

By Gregory B. Crampton
Nicholls & Crampton, P.A.

From November 4, 2008 to March 25, 2009 the undersigned person/firm has performed professional services for this estate in the capacity of attorney for the Debtor during the Chapter 11 case. Attached hereto is an itemization of time expended and expenses incurred in the performance of these professional services.

<u>NAME</u>	<u>TITLE</u>	<u>HOURS SPENT</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
Gregory B. Crampton	Principal	29.7	\$385	\$11,434.50
Stephani W. Humrickhouse	Principal	4.2	\$365	\$ 1,533.00
Phyllis W. Hill	Paralegal	10.9	\$110	<u>\$ 1,199.00</u>
Total Fees				\$14,166.50
Total Expenses				\$ 88.87
TOTAL AMOUNT REQUESTED				<u>\$14,255.37</u>

In Account With

NICHOLLS & CRAMPTON, P.A.
ATTORNEYS AT LAW3700 Glenwood Avenue - Suite 500
Post Office Box 18237
Raleigh, North Carolina 27612
Telephone: 919/781-1311 Fax: 919/782-0465

EXHIBIT

tabbles:

BFederal ID #
56-1201204D&M Land Company
1835 Eaton Ferry Road
Littleton, NC 27850Invoice Date: March 25, 2009
Invoice No. 89441
Client/Matter ID: 100686.001

RE: SWH - Possible Chapter 11 Representation

Amount Paid: _____

For legal services rendered, including but not limited to

			Hours	
11/04/2008	CRA	Return call to Wrennie Pitt re: auction, private sale (.2).	0.20	77.00
11/12/2008	CRA	E-mail to Wrennie Pitt re: auction private sale (.1); call from Macon White re: auction status, BB&T (.2).	0.30	115.50
11/19/2008	CRA	E-mail to Wrennie Pitt re: BB&T response (.1).	0.10	38.50
12/15/2008	HUM	Call to Keith Coltrain.	0.10	36.50
12/17/2008	HUM	Call to Keith Coltrain re: BB&T motions.	0.20	73.00
12/19/2008	HUM	Review Core Building response to BB&T motions and respond to Coltrain.	0.20	73.00
12/24/2008	HUM	Work on response to motion to modify plan.	0.70	255.50
01/02/2009	HUM	Work on response to dismissal motion. (1.0)	1.00	365.00
01/05/2009	CRA	E-mails to/from Jimmy Johnson re: e-mails, calls to Johnson re: auction (1.2)	1.20	462.00
	HUM	Finalize objection to motion to dismiss and prepare for filing.	1.20	438.00
01/06/2009	PAR	Tele. to Monty White for keys; tele. call to and meet with Jim Johnson re: property site visit.	0.80	88.00
	CRA	Work on auctioneer procedure, sale motion (1.4).	1.40	539.00
01/07/2009	CRA	E-mails from/to Jimmy Johnson re: auction (.3); revisions to sale motion (.8).	1.10	423.50
01/08/2009	CRA	Preparation for hearing, hearing on BB&T motions (1.2).	1.20	462.00

A finance charge is computed on account balances unpaid 30 days after the billing date at a periodic rate of 1 1/2% per month (Annual percentage rate of 18%)

D&M Land Company
RE: SWH - Possible Chapter 11 Representation

Invoice Date: 03/25/2009
Invoice No. 89441
Client/Matter ID. 100686.001

			Hours
01/09/2009	PAR	Work on draft of Motion for Authority to Employ and Compensate Auctioneer and Affidavit and draft of auction sale motion; e-mail to Jimmy Johnson.	2.30
			253.00
01/10/2009	CRA	Revisions to sale, auctioneer motion (1.0).	1.00
			385.00
01/13/2009	PAR	Work on revisions to Motion for Sale of Real Property at Public Auction Free and Clear of Liens, Approving Auctioneer Procedure and Approving Auctioneer Employment and Compensation of Auctioneer (1.8).	1.80
	HUM	Review auction pleadings.	0.50
	CRA	Revisions to auction sale motion and notice (1.5).	1.50
			577.50
01/14/2009	PAR	Finalize sale motion, notice and proposed Order; serve same on creditor matrix.	1.50
			165.00
01/15/2009	PAR	Tele. calls from Jimmy Johnson re: status of maintenance need on real property and auction update.	0.50
			55.00
01/21/2009	PAR	Tele. from Jimmy Johnson re: cell tower lease and mowing.	0.20
			22.00
01/28/2009	HUM	Review BB&T limited objection to sale.	0.30
			109.50
02/02/2009	PAR	Various E-mails to and from Jimmy Johnson re: auction.	0.20
	CRA	Work on response and objection to BB&T's limited objection, calls to Jimmy Johnson, auctioneer, revisions to response (2.2).	2.20
			847.00
02/03/2009	CRA	E-mails from Jimmy Johnson re: auction procedures, sample purchase contract (.3); review revised contract re: cell tower re: auction inquiries (.2); site's cleanup issues, non-warranty deed condition comments to Jimmy Johnson (.2); review auction notice, advertisement from Jimmy Johnson (.5); calls to Johnson re: BB&T water leak report (.2).	1.40
			539.00
02/04/2009	CRA	E-mail, voicemail from Dan Bruton re: water leak report (.2); e-mail response to Bruton re: immediate property checks (.1); calls to Jimmy Johnson re: auction set up (.4).	0.70
			269.50

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after the billing date at a periodic rate of 1 1/2% per month (Annual percentage rate of 18%)

D&M Land Company

RE: SWH - Possible Chapter 11 Representation

Invoice Date: 03/25/2009
 Invoice No. 89441
 Client/Matter ID. 100686.001

			Hours	
02/05/2009	CRA	Review BB&T "limited" objection, relief requested, effect (.6); calls to auctioneer re: uncertainty, cancellation of auction (.3); e-mails to/from Allyson McNeill re: emergency hearing (.3); e-mail from Jimmy Johnson re: open house (.1); e-mail to Pitt re: risk of auction cancellation, water leak status (.1); e-mail to Macon White re: auction (.1).	1.50	577.50
02/10/2009	CRA	Emails from/to Gali Amaraindes, Marcus Millicap re: auction, process (.3); review auction preparation (.2); e-mail to Jimmy Johnson re: BB&T credit bid provisions (.3).	0.80	308.00
	CRA	Preparation, hearing on BB&T limited objection, Debtor's response (1.7).	1.70	654.50
02/11/2009	CRA	E-mails from/to Jimmy Johnson re: auction procedures, announcements (.7); review proposed orders (.4).	1.10	423.50
02/12/2009	CRA	Revisions to auction sale order re: credit bid rights (.7); e-mail to/from Dan Bruton re: order (.2).	0.90	346.50
02/13/2009	PAR	Attend public auction.	1.00	110.00
	CRA	Calls to Jimmy Johnson re: auction (.2); review auction procedure, contract revisions (.7); attendance at auction, follow-up with auctioneer (1.1).	2.00	770.00
02/25/2009	PAR	Work on draft of Debtor's Report of Auction Sale and Motion for Confirmation of Sale of Real Property and Approval of Compensation of Auctioneer.	1.80	198.00
02/26/2009	CRA	Work on sale report, revisions (7); e-mail to Dan Bruton (.1).	0.80	308.00
03/01/2009	PAR	Revisions to sale report and motion, notice; work on draft of proposed Order.	0.80	88.00
	CRA	Revisions to Auction Report, motion to confirm sale (1.1), procedure.	1.10	423.50
03/25/2009	CRA	Check title description issues, work on non-warranty deed, closing issues (2.6); e-mail to/from Coltrain re: payoff verification (.2); e-mail to Dan Bruton re: deed, closing (.1); verify ad valorem tax payoff amounts, calculations for cash at closing requirement (1.1); e-mail to Dan Bruton re: closing (.5).	4.50	1,732.50
	CRA	Estimated time to complete closing, required disbursements.	3.00	1,155.00
	FEES BILLED		44.80	14,166.50

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after the billing date at a periodic rate of 1 1/2% per month (Annual percentage rate of 18%)

D&M Land Company
RE: SWH - Possible Chapter 11 Representation

Invoice Date: 03/25/2009
Invoice No. 89441
Client/Matter ID. 100686.001

FEE SUMMARY

Timekeeper	Hours	Rate	Total
G B Crampton	29.70	\$385.00	\$11,434.50
S W Humrickhouse	4.20	365.00	1,533.00
P W Hill	10.90	110.00	1,199.00

DISBURSEMENTS

Pacer charges	10.56
Postage	36.71
Copies	41.60
TOTAL DISBURSEMENTS through 03/25/2009	88.87
TOTAL FEES AND DISBURSEMENTS THIS INVOICE	14,255.37

BALANCE DUE	<u>\$14,255.37</u>
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A finance charge is computed on account balances unpaid 30 days

after the billing date at a periodic rate of 1 1/2% per month (Annual percentage rate of 18%)

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing **POST-CONFIRMATION APPLICATION FOR ATTORNEY FOR DEBTOR FEE AND EXPENSE REIMBURSEMENT** was served this day by placing a copy thereof in a depository under the exclusive care and custody of the United States Postal Service in a postage prepaid envelope and properly addressed as follows:

VIA CM/ECF E-MAIL SERVICE ONLY
Mrs. Marjorie K. Lynch
Bankruptcy Administrator
434 Fayetteville Street Mall, Suite 620
Raleigh, NC 27601

D & M Land Company, LLC
1835 Eaton Ferry Road

Littleton, NC 27850

This the 10th day of April, 2009.


s/Phyllis Hill
Phyllis Hill
Paralegal

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

CHAPTER 11

D & M LAND COMPANY, LLC,

CASE NO. 07-00054-5-ATS

Debtor.

NOTICE OF APPLICATION

NOTICE IS HEREBY GIVEN of the Post-Confirmation Application for Attorney for Debtor Fees and Expense Reimbursement (“Application”) filed herewith by Nicholls & Crampton, P.A., attorneys for the Debtor, seeking allowance of fees in the amount of \$14,166.50 and expense reimbursement in the amount of \$88.87 for the period November 4, 2008 to March 25, 2009.

Any objection to the Motion must be filed with the Clerk, United States Bankruptcy Court, 300 Fayetteville Street Mall, Second Floor, NC 27601-1799, with a copy served on the Debtor’s counsel whose names appear at the bottom of this Notice, **within FIFTEEN (15) DAYS of the date of this Notice, inclusive of three days for mailing pursuant to Rule 9006(f) of the Bankruptcy Rules.**

[Paragraph 10.4 of Debtor’s Confirmed Plan reduced the Notice period applicable to attorney for Debtor fee applications for post-confirmation services to a fifteen (15) day Notice, inclusive of the three days for mailing otherwise applicable (“*The notice period applicable to service of any notices on the creditors otherwise applicable, pursuant to the provisions of the Code or this Plan, excluding any notice of hearing on application or allowance of compensation of professional persons for services rendered prior to the Confirmation Date pursuant to Section 330 of the Code, but including any notice of hearing on application or allowance of compensation of professional persons for services rendered after the Confirmation Date pursuant to Section 330 of the Code, are reduced to a fifteen (15) day period, inclusive of the three days for mailing pursuant to Rule 9006(f) of the Bankruptcy Rules....*”). *[the applicable Notice Period was reduced to a fifteen day period, inclusive of the three days for mailing, by the terms of paragraph 10.4 of Debtor’s Confirmed Plan of Reorganization].*

No hearing will be conducted on said objection unless the Court, in its discretion, deems a hearing necessary, or unless a party in interest requests a hearing. Any party requesting a hearing shall appear at the hearing in support of such request or he may be assessed with costs.

DATE OF NOTICE: April 10, 2009.


s/Gregory B. Crampton

Gregory B. Crampton
State Bar No. 991
Attorneys for Debtor
NICHOLLS & CRAMPTON, P.A.
Post Office Box 18237
Raleigh, North Carolina 27619
Telephone: (919) 781-1311

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

CHAPTER 11

D & M LAND COMPANY, LLC,

CASE NO. 07-00054-5-ATS

Debtor.

CERTIFICATE OF MAILING

I, Phyllis Hill, Paralegal, of Nicholls & Crampton, P.A., Post Office Box 18237, Raleigh, North Carolina certify:

That on or before April 10, 2009, I mailed copies of the foregoing NOTICE OF APPLICATION with regard to the POST-CONFIRMATION APPLICATION FOR ATTORNEY FOR THE DEBTOR FEE AND EXPENSE REIMBURSEMENT by placing said copy in the United States Mail, postage prepaid (consistent with the provisions of Paragraph 10.2 and 10.3 of Debtor's Confirmed Plan) to the Debtor, to those parties listed on the List of Creditors Holding 20 Largest Unsecured Claims, and as follows:

D & M Land Company, LLC
1835 Eaton Ferry Road
Littleton, NC 27850

Allen & Woodall, LLP
P.O. Box 30546
Raleigh, NC 27622

AT&T
P.O. Box 9001310
Louisville, KY 40290

Austin Security
6199 Wesley Dr.
Battleboro, NC 27809

Bobbitt Design Build, Inc.
600 Germantown Rd.
Raleigh, NC 27607

Boxley, Bolton, Garber & Haywood LLP
P.O. Drawer 1429
Raleigh, NC 27602

Cameron M. Harris & Company
P.O. Box 220748
Charlotte, NC 28222

City of Raleigh
P.O. Box 96084
Charlotte, NC 28296

Core Building Company, Inc.
3709 Auburn Church Road
Garner, NC 27529

VIA CM/ECF E-MAIL SERVICE ONLY
Keith E. Coltrain, Esq.
Attys. for Core Building Company
Elmore & Wall, PA
1001 Wade Ave., Suite 423
Raleigh, NC 27605

Duke Energy
P. O. Box 70516
Charlotte, NC 28272

Gaston Pointe Contractors, LLC
1835 Eaton Ferry Rd.
Littleton, NC 27850

Macon M. White
1835 Eaton Ferry Road
Littleton, NC 27850

Wachovia Insurance Services
P.O. Box 220748
Charlotte, NC 28222

Wake County Revenue Dept.
P.O. Box 96084
Charlotte, NC 28296

VIA CM/ECF E-MAIL SERVICE ONLY
Daniel C. Bruton, Esq.
Bell, Davis & Pitt, P.A.
Attorney for BB&T
100 North Cherry St., Ste. 600
P.O. Box 21029
Winston-Salem, NC 27101

VIA CM/ECF E-MAIL SERVICE ONLY
Marjorie K. Lynch
Bankruptcy Administrator
434 Fayetteville Street Mall, Suite 620
Raleigh, NC 27601

Verizon South
P.O. Box 920041
Dallas, TX 75392

Wake County Revenue Dept.
P.O. Box 2331
Raleigh, NC 27602-2331

Carolina Fire Protection, Inc.
P.O. Box 250
Dunn, NC 28335-0250

VIA CM/ECF E-MAIL SERVICE ONLY
John A. Northen, Esq.
Attorneys for R. Duane White
Northen Blue, L.L.P.
1414 Raleigh Road, Suite 435
P.O. Box 2208
Chapel Hill, NC 27515-2208

I certify under penalty of perjury that the foregoing is true and correct.

This 10th day of April, 2009.


s/Phyllis Hill
Phyllis Hill
Paralegal
NICHOLLS & CRAMPTON, P.A.
Post Office Box 18237
Raleigh, North Carolina 27619
Telephone: 919-781-1311

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